

A
0
0
0
0
3
1
0
3
1
8

UC SOUTHERN REGIONAL LIBRARY FACILITY

SECOND EDITION.

41-

British and Transvaal Laws and Constitutions:

A COMPARISON.

5

050

402

By EDWARD B. ROSE

*Ex-President of the Witwatersrand Mine Employees' and
Mechanics' Union).*

DURING the late General Election, Mr. Herbert Spencer, writing to the Right Hon. Leonard Courtney with reference to the war, made the suggestion that "A Comparison should be made between the constitution and doings of the so-called Boer oligarchy and the oligarchy which existed in England prior to the Reform Bill of 1832, and it should be widely circulated and emphasised." Evidently, Mr. Spencer's idea was that such a comparison would show that the Boers were at least as advanced as regards their "constitution and doings" as was the Great Britain of 1832. But there is absolutely no necessity to go back seventy years in English History to find a parallel for the Transvaal of to-day, and the fact that such an assumption should be made by a man of Mr. Herbert Spencer's eminence is striking testimony to the general ignorance which prevails in this country regarding the little Republics with which we are so unhappily at war in South Africa. The following comparison is between the "constitution and doings" of the Transvaal as it existed at the time that war was declared and those of England of to-day; and it will be seen that, so far from the former country

22092

suffering by such a comparison, it emerges from the ordeal decidedly with credit.

At the same time, I wish to point out and to emphasise that I have absolutely no desire to contrast the ancient genius of the English race, with its inherent—although, unfortunately, too often thwarted—love of freedom with those of the Boers, to the disadvantage of my own country. I simply wish to shew the extent to which the natural British love of democratic freedom has been retarded and hampered by the apathy and ignorance which are always and everywhere the evil fruits of hide-bound Toryism; and especially—as of late—by the bastard Imperialism with which the country is presently afflicted, and which cannot fail to exercise its baneful influence as long as it holds the country in thrall. Further: according to present indications the annexation of the Republics will be persisted in by Great Britain. Now it is obvious that we shall, in that case, succeed in conciliating and governing the Boers according to the extent that we retain the laws and constitution to which they have been accustomed. And by shewing how excellent those institutions are in many respects, and how worthy of preservation; viewed in this light it may fairly be claimed for this little pamphlet that it may constitute a valuable contribution to the discussion of the coming settlement in South Africa.

The conditions which obtain in the two countries respectively under the various heads dealt with are placed in parallel columns, in order that the advance made by each nation towards pure democracy may be seen at a glance.

ENGLAND.

TRANSVAAL.

1.—*Franchise—as affecting British and Boer respectively.*

A restricted franchise obtained only after fifty years of continuous agitation. In the middle of 1899 the male population aged 21 and upwards numbered 11,985,900. Of these only 6,161,487 possessed votes, leaving 5,824,413, or nearly 50 per cent. unenfranchised.

Absolute manhood suffrage obtains. On attaining the age of 21 years every male Boer *ipso facto* acquires full franchise rights, while the right to a limited franchise is acquired at the age of sixteen.

ENGLAND.

TRANSVAAL.

2.—*Franchise—as affecting Aliens.*

Requirements: Five years residence in Great Britain or a British Possession; a certificate of naturalisation; payment of £5 naturalisation fee; taking the oath of allegiance. But naturalisation and subsequent enfranchisement depend absolutely upon the goodwill of the Home Secretary for the time being. "He—the Home Secretary—shall have the right, with or without giving his reasons, to refuse such certificate of naturalisation, and from his decision there shall be no appeal." *Vide* "Naturalisation Act" of 1870. And the mere act of naturalisation does not *ipso facto* confer any political rights.

Requirements: Seven years residence in the country; becoming naturalised; payment of £2 naturalisation fee; taking the oath of allegiance. Every alien who has resided for two years in the country is entitled to letters of naturalisation. These letters entitle him to vote at once for Members of the Second Volksraad and for certain officials of the State. The seven years' residence required to obtain the full franchise include the two years' required for naturalisation. There is no right in any official, as in the Home Secretary here, to refuse to grant letters of naturalisation.

3.—*Voting Qualifications.*

Various property or rating qualifications required to qualify British subjects for a vote in Great Britain, mostly tending to restrict voting powers to the comparatively well-to-do.

No qualifications whatsoever are required in the Transvaal to qualify Transvaal burghers for the full franchise beyond being of necessary age.

4.—*Registration Laws.*

Complex provisions which render the acquisition of voting powers difficult, and in effect disfranchise from 10 to 25 per cent. of the nominal electors at every election.

There are none. All the registration required is to enter the name in the register kept by the Field-cornet on entering the country or on removing from one town or district into another, and that one registration holds good as long as the voter remains in the same field-cornetcy.

ENGLAND.

TRANSVAAL.

5.—*Number of Votes.*

Plural voting largely prevails. Another unfair privilege in favour of the well-to-do.

One man one vote, only.

6.—*Office of Head of State.*

Hereditary.

Elective; the electors being all registered burghers of full age.

7.—*Legislatures.*

One House elective; the other hereditary, obstructive, unnecessary and anti-democratic.

Both Raads elective, and the business of legislation divided between them; the first Raad being, like the British House of Commons, the more important of the two bodies.

8.—*Duration of Parliaments.*

House of Commons elected for seven years.

Volksraads elected for four years.

9.—*Payment of Members.*

None; a fact which tends to restrict membership to the wealthy.

All members of the Volksraads paid at the rate of £3 per day during the time the Volksraads are in Session; but payment is stopped if members are absent without satisfactory excuse.

10.—*Attendance of Members.*

Parliament exercises no control over Members as regards attendance, etc.

Members are liable to a fine of 75 "rix-dollars" (£5 12s. 6d.) if absent without leave of the Volksraad.

11.—*Election Expenses.*

So heavy that they practically debar any but the wealthy from being elected to Parliament.

Non-existent. It is *illegal* to spend money on elections in the Transvaal; thus preventing corruption, and equalising the chances of rich and poor candidates.

ENGLAND.

TRANSVAAL.

12.—*The Referendum.*

None. The people have practically no voice in deciding the nature of legislation. *Promises* are plentiful enough at election time, but the performance is invariably very far short.

All laws—except in cases of urgency—having been submitted by the Government to the Volksraad and the principles accepted are then published for three months in the *Staatscourant*, or Government Gazette, to enable the people to consider them, and the burghers either instruct their Members how to vote thereon or petition the Volksraad direct for or against the proposed law.

13.—*Legislators, Expounders of Laws.*

No such admirable principle obtains.

After each Session of the Volksraad each Member must repair to his constituency and render an account of his stewardship, and in particular must explain to the people the various laws passed during the Session just concluded.

14.—*Making and Ratification of Treaties.*

The nation may be bound to any extent by the Cabinet or even the Premier alone, by treaties with Foreign Powers, and by declaring and commencing war. The prerogative of the Crown means in practice the absolute authority of the Cabinet.

The Government makes and enters into treaties, but they must be ratified by the First Volksraad before they become effective and binding. The same holds good as to declaring war.

15.—*Appointment of Head of Army.*

Commander-in-Chief; appointed by the Crown.

Commandant-General; elected by popular vote.

16.—*Appointment of Military Officers.*

Army officers appointed by examination; promoted—frequently—by favoritism and influence.

Commandants, Field-cornets, etc., who assume military rank in time of war, elected by popular vote.

ENGLAND.

TRANSVAAL.

17.—*Composition of the Court-Martial.*

The Court-Martial is composed entirely of officers; with inevitable tendency to class prejudices.

The Court-Martial is composed of the Commandant-General, or senior officer present, and four each of Commandants, Field-cornets or Assistant-Field-cornets, and burghers; corresponding to English commissioned officers, non-commissioned officers, and privates respectively. (If the Commandant-General does not preside at a Court-Martial its sentence is subject to his ratification.)

18.—*Extent and Incidence of Taxation.*

Far heavier than would be necessary under a policy of "Peace, Retrenchment, and Reform", and the bulk of it, being indirect, falls upon the poorer classes—those least able to pay.

Also heavier than necessary, but the bulk of it so arranged as to fall upon those best able to pay—the wealthy mine-owners and land-speculators. The only direct personal taxation amounts to 18s. 6d. per head per annum. Indirect taxation is mainly raised by customs duties, which, however, are considerably lighter than those in the Cape Colony. There is no income tax at all.

19.—*Land Tax.*

Legitimate taxes on land shamefully evaded by the land-owners, and not nearly so heavy as they ought to be.

Every farm bears a moderate tax. In the case of absentee landowners the tax is doubled, the extra revenue thus accruing to the State being devoted to war purposes.

ENGLAND.

TRANSVAAL.

20.—*State Church.*

Supported by enormous endowments monopolised by one religious body exclusively.

None, nor tithes. Formerly sums of money were occasionally voted by the Volksraad in favor of particular churches or ministers. But the latest of these grants was made in 1887.

21.—*Educational.*

Improving? but still far behind many other countries; notably Germany and America. In the only cases where a comparison can be made with the Transvaal it required over *twenty-five years* of agitation to secure the teaching in Welsh of Welsh children in Welsh schools; and to this day their national language is prohibited as a medium of instruction to Irish children in Irish schools, and to Scotch Gaels in Gaelic.

After a few years of agitation teaching in an alien tongue—English—was instituted in certain Government subsidised schools, and schools were even established by the Government for the special benefit of English children in which the sole medium of teaching was English. In 1898—the last year for which returns are available—the *Transvaal spent five times as much per head of the population upon education as England.*

22.—*Pauperism.*

One in every thirty-nine of the entire population of Great Britain and Ireland is a pauper.

Not a workhouse in the State and no necessity for one. Owing to the special distress ensuing from the rinderpest visitation of 1897-8 certain of the impoverished burghers were granted assistance by the Government.

23.—*Restriction upon the Immigration of Undesirable Aliens.*

None.

A law was passed by the Volksraad and repealed in deference to the British Government, who declared it to be in conflict with the London Convention.

24.—*Corruption.*

A Colonial Secretary proved to be interested in firms and companies contracting with the Government of which he is a member. A Civil Lord of the Admiralty, after assuming that Office, acquires a large interest in a company contracting with his department. The commercial life of the nation so rotten that only the year before last the late Lord Chief Justice had to bring into Parliament "A Bill to prevent, by making illegal, the giving or receiving of bribes under the name of commission," etc. The "Hooley revelations" and the scandals in connexion with Kynochs; Tubes, Limited; Hoskins and Sons, etc., are still fresh in the public memory; and the "remounts", "meat contracts", and other scandals arising out of the war still more so.

Certain members of the Volksraad *said* to have accepted bribes in connexion with the Selati Railway Concession, etc. (N.B.—Some of the men making these charges have recently been sentenced by the Belgian Court at Brussels to long terms of imprisonment for fraud upon the Transvaal Government in this very connexion.) Members of Transvaal Executive *said* to be corruptly interested in the Dynamite and other concessions. Public officials *said* to be corrupt and dishonest, but practically nothing *proved* except a shortage of cash in the cases of a few minor officials.

25.—*Right of Public Meeting.*

The police may summarily disperse any open-air meeting of more than *fourteen* persons, even although there be no disturbance or breach of the peace. In practice, for months the right of not only public but private meeting has been denied to the advocates of Peace by Jingo roughs; a practice condoned by Ministers in the House of Commons. As regards the right of public meeting in Ireland the less said the better.

No *open-air* meeting may be held without the consent of the Government having been previously obtained. This law was only passed after the Jameson Raid. In practice, this "Public Meetings Law," as it is called, has been enforced three times. On two occasions meetings *in favour of the Transvaal Government* were prohibited, and once an Uitlander meeting, for the holding of which permission had not even been asked, was forbidden under exceptional circumstances, and rightly forbidden.

ENGLAND.

TRANSVAAL.

26.—*Right of Appeal in Criminal Cases.*

None.

Has obtained to the fullest extent ever since the framing of the Transvaal Constitution in 1858.

27.—*Laws affecting Landlords and Tenants.*

Grossly unfair and partial, giving landlord an advantage on every possible occasion, as e.g., right of distress for rent, and of a preferential claim as creditor, etc.

Absolutely impartial. Landlord has no preference under any circumstances, but ranks as an ordinary creditor, and takes the same chances as any other.

28.—*The Gold Law.*

The gold-mining industry in North Wales was crushed by the excessive royalties demanded by the Government.

Admittedly the best in the world and the most lenient. Absolutely the only Gold Law under which claims may be held for any length of time without a certain amount of work being put into them. Compare the *five per cent.* tax authorised but never imposed in the Transvaal on the *profits* of the gold-mines with the *fifty per cent.* levied in Rhodesia on the *output* under British rule.

29.—*Certificated Engine-Drivers.*

No certificate of competence required.

All engine-drivers must have a Government certificate, to obtain which necessitates passing a stiff examination. This, in the case of hauling engine-drivers ensures greater safety to the men whose lives are entrusted to their keeping when raising from or lowering into the mines.

ENGLAND.

TRANSVAAL.

30.—*Government Inspection of Boilers.*

None—agitation to obtain it unsuccessful.

A reform long ago effected ; also resulting in safer conditions of labour for the workers.

31.—*The Liquor Traffic.*

The despair of the reformer. Exerts a most powerful and baneful influence, scarcely, if anything inferior to that of the land-owning classes. Drunkenness denounced as the greatest scourge and curse of the country.

Far more under control than in England. Absolute prohibition as regards the natives. A few years ago the Government effected a reduction of Bar Licenses in Johannesburg of fully twenty-five per cent. and further reductions were being made at each subsequent licensing session. During nearly thirteen years residence in the Transvaal the present writer never once saw a drunken Boer. Shortly before the war the Chamber of Mines, the Chamber of Commerce, and the Mine Managers' Association jointly convened a mass meeting, which passed resolutions of thanks to the Government for the improved administration of the Liquor Law.

Many other points of minor importance could be given comparing favourably with England, as, *e.g.*, the appointment of the State-Secretary by the Volksraad, and the appointment of the corresponding Minister in England—the Home Secretary—by the Premier.

It is also worth mentioning that, notwithstanding their extreme religious bias, civil marriage only is recognised by the State in the Transvaal. Even in such a comparatively unimportant matter as the "Pawnbrokers' Act" there is a very desirable provision which has no counterpart in the English Law of the same name. This is to the effect that any person desiring to pawn an article shall be required to make



a sworn declaration that the article is his or her own property, and no pawnbroker may take an article in pawn without the production of such an affidavit by the would-be pawner. This not only serves as a safeguard against the facilities offered for disposed of stolen property by pawning, but tends to restrict otherwise legitimate pawning by making it too troublesome a process. It may be mentioned, *en passant*, that pawnbroking was unknown in the Transvaal until the influx of Uitlanders led to its institution at Johannesburg.

But apart from these considerations, here we have enumerated thirty-one points, having references to matters political, military, economical, and social, every one of great and many of supreme importance; and in the vast majority of them we find that from the democratic standpoint not only is the Transvaal abreast of England, but very far ahead. And it would certainly be impossible to name an equal number of matters of equal importance wherein Great Britain and its constitution and laws are in advance of the Transvaal.

What a commentary is not the above compilation upon the assertion so persistently made that the Boers are a nation of barbarians, if not of savages! So far from that being the case it may be said without the least exaggeration that in destroying the nationality of the Boers, the British Government is engaged in destroying the nearest approach to essentially democratic government that probably the world has ever seen; certainly, that exists at the present time.

PRICE ONE PENNY (1½d. post free).

London: A. & H. B. BONNER, 1 & 2 Took's Court, E.C.

"MORNING LEADER" PAMPHLET DEPARTMENT,
30 St. Bride Street, E.C.

SECOND EDITION

White Labour in the Transvaal.

BY EDWARD B. ROSE.

PRICE ONE PENNY (post free 1½d.).

A. & H. B. BONNER, 1 & 2 Took's Court, London, E.C.

"MORNING LEADER" PAMPHLET DEPARTMENT,
30 St. Bride Street, E.C.